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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,490

12/10/2004

Iwao Yamazaki

04173.0461-00000

5583

22852 7590 10/30/2008  
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EXAMINER

HOEKSTRA, JEFFREY GERBEN

ART UNIT

PAPER NUMBER

3736

MAIL DATE

DELIVERY MODE

10/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,490	<b>Applicant(s)</b> YAMAZAKI ET AL.	
	<b>Examiner</b> JEFFREY G. HOEKSTRA	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Notice of Amendment*

1. In response to the amendment filed on 07/01/2008, amended claim(s) 1-3 is/are acknowledged. The current rejections of the claim(s) 1-3, 5, and 6 is/are *withdrawn*.

The following new and reiterated grounds of rejection are set forth:

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimomura (US 6,539,310) in view of Kawanishi (JP 11-123182).

4. Shimomura discloses a display equipment for displaying the characteristics of a body including the quantities of the bone, the water and/or the muscles of the body, the display equipment comprising:

- a plurality of pairs electrodes (21a,b and 22a,b) for contacting the surface of the body;
- means for measuring (23, 24) impedance of the body by feeding a measuring current through said plurality of electrodes into the body;
- a memory (44) for storing personal information into the display equipment (column 4 lines 27-29) (as seen in Figure 3);

- means for calculating (45) the *approximate* value of muscular weight (column 5, lines 58-63) of the body on the basis of the measured impedance and said personal information (column 7 line 58 – column 8 line 3 and column 8 lines 54-63);
- means for judging the somatotypes of the body, which are classified on the basis of correlations between approximate values as calculated and body weight (see at least figures 5-7); and
- a display (42) for indicating the somatotype as judged by said judging means (see at least figure 10).

5. In regards to claim 2, Shimomura discloses the display equipment, wherein the personal information includes gender and age (column 4, lines 56-61).

6. In regards to claim 3, Shimomura discloses the display equipment, wherein said memory records the at least one of approximate values of the bone weight, the water weight and the muscular weight of the body, as data calculated on the basis of the impedance as measured (column 4 lines 27-29) (as seen in Figure 3), and wherein said display indicates the data as calculated (as seen in Figures 3 and 10-12) (column 7, lines 4-17 and column 8, lines 4-12).

7. In regards to claims 5 and 6, Shimomura discloses the display equipment, wherein the equipment feeds a pulsed current (column 5, lines 10-15) through said electrodes into the body, so as to treat the body.

8. Shimomura discloses the claimed invention, as set forth and cited above, except for expressly disclosing that a belt includes the plurality of pairs of electrodes.

Kawanishi teaches a belt (9) including a plurality of pairs of electrodes (1-6) for the

purpose of contacting electrodes with an abdominal part of a patient in order to measure body composition using impedance (see English abstract). All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. All of the component parts are known in Shimomura and Kawanishi. The only difference is the combination of the component parts into a single device. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the components as taught by Shimomura with the components as taught by Kawanishi to achieve the predictable results of providing an alternative means for contacting electrodes with the body to make impedance measurements and determine body composition.

### ***Response to Arguments***

9. Applicant's arguments filed 07/01/2008 have been fully considered but they are not persuasive.

10. Applicant argues that Shimomura does not disclose, teach, and/or fairly suggest "means for calculating at least one of approximate values of bone weight, water weight, and muscular weight of the body, as well as means for judging a somatotype of the body..., classified on the basis of a correlation between the approximate values as calculated and the body weight" arguing the LMI (lean mass index) determination of

Shimomura does not constitute an independent calculation of “at least one of approximate values of bone weight, water weight, and muscular weight of the body”.

11. The Examiner disagrees, maintains the rejection as set forth and reiterated above, and in response notes the following:

12. Shimomura is expressly concerned with and discloses a means for calculating (45) an *approximate* value of muscular weight as claimed (column 5 lines 58-63, column 7 line 58 – column 8 line 3, and column 8 lines 54-63). As Applicant points out, Shimomura is concerned with *approximating* the LMI of a patient (see page 8 filed 07/01/08) and explicitly states

a. “Further, although in the above-described representation mode, the LMI has been indicated as an index of the lean tissue, the representation mode may be modified so that the LMI may be treated as an index of the muscular tissue since generally the lean tissue is mostly consisting of the muscular tissue.

Thereby, providing an indication of whether the muscle mass being more or less rather than the indication of the lean tissue mass, which is unfamiliar word to the ordinary people, can help the subject understand the indication more easily.”

(column 8 lines 54-63).

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY G. HOEKSTRA whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday 8am to 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3736

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey G Hoekstra/  
Examiner, Art Unit 3736

/Max Hindenburg/  
Supervisory Patent Examiner, Art Unit 3736